

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

v.

**No. CV 07-0899 WJ/LAM
CR 04-1553 WJ**

CHARLES ELLWOOD GWATHNEY,

Defendant/Movant.

**ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED FINDINGS
AND RECOMMENDED DISPOSITION (Doc. 20)**

THIS MATTER is before the Court on Magistrate Judge Lourdes A. Martínez' *Proposed Findings and Recommended Disposition* (Doc. 20), filed on March 4, 2008. No party has filed objections to the proposed findings and recommended disposition and the deadline for filing objections has passed. The Court has determined that it will adopt the *Proposed Findings and Recommended Disposition* (Doc. 20); deny Mr. Gwathney's *Motion Pursuant to 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody* (Doc. 1), without an evidentiary hearing; deny Mr. Gwathney's *Motion for Evidentiary Hearing on Petitioner's 28 U.S.C. § 2255 Motion* (Doc. 5); deny Mr. Gwathney's *Motion Substantiating the Need for an Evidentiary Hearing* (Doc. 18); deny Mr. Gwathney's *Motion to Preserve Transcript of the April 6, 2005 Hearing on Motion to Produce Business Records of Western Union and Documents Seized in Defendant's Truck and Motion to Replace Defense Counsel* (Doc. 10); deny Mr. Gwathney's *Motion for Order to Produce and Obtain Transcript of the Hearing of April 6, 2005* (Doc. 13);

deny as moot Mr. Gwathney's *Motion to Produce Grand Jury Transcript and Material* (Doc. 16); and dismiss this case with prejudice.

IT IS THEREFORE ORDERED that the *Proposed Findings and Recommended Disposition* (Doc. 20) are **ADOPTED** by the Court.

IT IS FURTHER ORDERED that Mr. Gwathney's *Motion Pursuant to 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody* (Doc. 1), *Motion for Evidentiary Hearing on Petitioner's 28 U.S.C. § 2255 Motion* (Doc. 5), *Motion Substantiating the Need for an Evidentiary Hearing* (Doc. 18), *Motion to Preserve Transcript of the April 6, 2005 Hearing on Motion to Produce Business Records of Western Union and Documents Seized in Defendant's Truck and Motion to Replace Defense Counsel* (Doc. 10), and *Motion for Order to Produce and Obtain Transcript of the Hearing of April 6, 2005* (Doc. 13) are **DENIED**.

IT IS FURTHER ORDERED that Mr. Gwathney's *Motion to Produce Grand Jury Transcript and Material* (Doc. 16) is **DENIED** as moot.

IT IS FURTHER ORDERED that this case be **DISMISSED WITH PREJUDICE** and that a final judgment be entered concurrently with this order.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'William P. Johnson', is written over a horizontal line.

HONORABLE WILLIAM P. JOHNSON
UNITED STATES DISTRICT JUDGE